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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CHRISTINA NYITRAY, an individual;
ANTHONY NYITRAY, an individual;

Plaintiffs,

vs.

BANK OF AMERICA, INC., a Delaware
Corporation; EQUIFAX, INC., a Foreign
Corporation; TRANSUNION, LLC, a
Foreign Limited-Liability Company;
EXPERIAN INFORMATION SOLUTIONS,
INC., a Foreign Corporation,

Defendants.

Case Number
18-327

COMPLAINT

Plaintiffs, Christina Nyitray and Anthony Nyitray, (hereinafter "Plaintiffs"), by and through their counsel of record, Cogburn Law Offices, hereby complains against Defendants as follows:

I. PRELIMINARY STATEMENT

1. This is an action for actual, statutory and punitive damages, costs and attorney fees brought pursuant to 15 U.S.C. § 1681 et seq. (Fair Credit Report Act) and State Law Claims.

1 **II. JURISDICTION AND PARTIES.**

2 **A. JURISDICTION AND VENUE.**

3 1. The jurisdiction of this Court is conferred by 15 U.S.C. § 1681(p) and 28 U.S.C.
4 1367.

5 2. Plaintiffs are natural persons and residents of the State of Nevada and are a
6 “consumer” as defined by 15 U.S.C. § 1681a(c).

7 3. Venue is proper pursuant to 28 U.S.C. § 1391 as Defendants do business within the
8 District of Nevada, are subject to the Court’s personal jurisdiction and a substantial part of the
9 events giving rise to the claims alleged occurred within the District of Nevada.

10 **B. THE CREDIT BUREAUS AND FURNISHER.**

11 4. This matter involves three entities in the business of furnishing credit reports.
12 Experian, Transunion and Equifax will be collectively known as the “Credit Bureaus,” along with
13 the furnisher, Bank of America.

14 5. Upon information and belief, Equifax Information Services, LLC (hereinafter
15 “Equifax”) is a corporation incorporated under the laws of the State of Georgia and does business
16 in the State of Nevada.

17 6. Upon information and belief, Defendant, Equifax is a “consumer reporting
18 agency,” as defined in 15 U.S.C. § 1681(f).

19 7. Upon information and belief, Defendant, Transunion, LLC, (hereinafter
20 “Transunion”) is a limited liability company licensed in the State of Illinois and does business in
21 the State of Nevada.

22 8. Upon information and belief, Defendant, Transunion, is a “consumer reporting
23 agency,” as defined in 15 U.S.C. § 1681(f).

1 9. Upon information and belief, Defendant Experian Information Solutions, Inc., is a
2 “consumer reporting agency,” as defined in 15 U.S.C. § 1681(f). (hereinafter “Experian”).

3 10. Upon information and belief, Defendant, Experian, is a corporation licensed in the
4 State of California and does business in the State of Nevada.

5 11. Upon information and belief, Bank of America, Inc., (hereinafter “BofA”) is a
6 corporation incorporated under the laws of the State of Delaware and does business in the State of
7 Nevada.

8 12. Upon information and belief, BofA is a furnisher of information under 15 U.S.C. §
9 1681s-2.

10 **III. GENERAL ALLEGATIONS**

11 13. Plaintiffs had a mortgage loan with BofA (hereinafter the “BofA Loan”) secured
12 by a parcel of real property in Clark County, Nevada, through Bank of America.

13 14. On or about May 30, 2013 the Southern Terrace Homeowners Association
14 foreclosed on the property and Foreclosure Deed Upon Sale was recorded with the Clark County
15 Recorder.

16 15. The BofA Loan status should have ceased reporting as late or past due following
17 the above referenced foreclosure.

18 16. BofA reported and continues to report the loan for the sold property, as still being
19 late or past due.

20 17. Disputes were filed with each of the Credit Bureaus indicating the error.

21 18. Information on Plaintiffs’ credit report regarding the BofA loan was inaccurate.

22 19. The false reported negative information placed on Plaintiffs’ credit report continues
23 to harm the Plaintiffs.

20. The Credit Bureaus and BofA failed to conduct a thorough investigation into this dispute and it remains unchanged.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF AGAINST CREDIT BUREAUS

21. The Plaintiffs reallege and incorporate each paragraph above, as if fully set out herein.

22. The Credit Bureaus violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit report and credit files it published and maintains concerning Plaintiff.

23. As a result of this conduct, action and inaction of the Credit Bureaus, Plaintiffs suffered damage by loss of credit, loss of the ability to purchase and benefit from a credit, the mental and emotional pain and anguish and the humiliation and embarrassment of credit denials.

24. The Credit Bureau's conduct, action and inaction was willful, rendering it liable for punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n. In the alternative, it was negligent, entitling Plaintiffs to recover under 15 U.S.C. 1681o.

25. Plaintiffs are entitled to recover costs and attorney fees from the Credit Bureaus in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and/or § 1681o.

SECOND CLAIM FOR RELIEF AGAINST THE CREDIT BUREAUS

26. The Plaintiffs reallege and incorporate each paragraph above, as if fully set out herein.

27. The Credit Bureaus violated 15 U.S.C. § 1681i on multiple occasions by failing to delete inaccurate information in the Plaintiffs' credit file after receiving actual notice of such inaccuracies; by failing to conduct a lawful reinvestigation; by failing to forward all relevant information to BofA; by failing to maintain reasonable procedures with which to filter and verify

1 disputed information in the Plaintiffs' credit file; and by relying upon verification from a source it
2 has reason to know is unreliable.

3 28. As a result of this conduct, action and inaction of the Credit Bureaus, the Plaintiffs
4 suffered damage by loss of credit; loss of the ability to purchase and benefit from credit; and the
5 mental and emotional pain, anguish, humiliation, and embarrassment of credit denials.

6 29. The Credit Bureaus conduct, action and inaction was willful, rendering it liable for
7 actual or statutory damages, and punitive damages in an amount to be determined by the Court
8 pursuant to 15 U.S.C. § 1681o.

9 30. The Plaintiffs are entitled to recover costs and attorney fees from the Credit Bureaus
10 in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and/or 1681o.

11 **FIRST CLAIM FROM RELIEF AGAINST BANK OF AMERICA**

12 31. The Plaintiffs reallege and incorporate each paragraph above, as if fully set out
13 herein.

14 32. BofA published the representations to the Credit Bureaus and through each of the
15 credit reporting bureaus identified above to all of Plaintiffs' potential lenders on multiple
16 occasions, including but not limited to the reporting the BofA Loan on a sold property as past due
17 or late (the "Defamation").

18 33. The Defamation was willful and with malice. BofA did not have any reasonable
19 basis to believe that the Plaintiffs were responsible for the account reported to the Credit Bureaus
20 reflecting inaccurate information. The BofA account should have reported as foreclosed without
21 reference to existing balance and BofA had no basis to continue furnishing inaccurate account
22 information to each credit reporting bureau identified above.

1 34. As a result of this conduct, action and inaction of BofA, the Plaintiffs suffered
2 damage by loss of credit; loss of the ability to purchase and benefit from credit; and the mental
3 and emotional pain, anguish, humiliation, and embarrassment of credit denials.

4 a. The defamation, conduct and actions of BofA were willful, deliberate,
5 intentional and/or with reckless disregard for the interests and rights of Plaintiffs such as to justify
6 an award of punitive damages against BofA in an amount to be determined by the Court.

7 **SECOND CLAIM FOR RELIEF AGAINST BANK OF AMERICA**

8 35. The Plaintiffs reallege and incorporate each paragraph above, as if fully set out
9 herein.

10 36. BofA violated the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b) by continuing
11 the representation within Plaintiffs' credit file with each of the Credit Bureaus identified above
12 without also including a notation that this debt was disputed; by failing to fully and properly
13 investigate the Plaintiffs' dispute of the BofA representation; by failing to review all relevant
14 information regarding same; by failing to accurately respond to the Credit Bureaus; by failing to
15 correctly report results of an accurate investigation to every other credit reporting agency; and by
16 failing to permanently and lawfully correct its own internal records to prevent the re-reporting of
17 the representations to the consumer reporting agencies.

18 37. As a result of this conduct, action and inaction of BofA, the Plaintiffs suffered
19 damage by loss of credit; loss of the ability to purchase and benefit from credit; and the mental
20 and emotional pain, anguish, humiliation, and embarrassment of credit denials.

21 38. BofA's conduct, action and inaction was willful, rendering it liable for actual or
22 statutory, and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C.
23 § 1681n. In the alternative, it was negligent entitling the Plaintiffs to recover actual damages under
24 15 U.S.C. 1681o.

39. The Plaintiffs are entitled to recover costs and attorney fees from BofA in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and § 1681o.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the Defendants, on all counts, for the following:

1. Actual damages;
2. Statutory damages;
3. Punitive damages;
4. Costs and reasonable attorneys' fees;
5. A trial by jury; and
6. For such other and further relief as the Court may deem just and proper.

Dated this 22nd day of February, 2018.

COGBURN LAW OFFICES

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